

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TRACY CARTER,)	
)	
Plaintiff,)	
)	
v.)	1:20CV252
)	
KILOLO KIJAKAZI, ¹)	
Acting Commissioner of)	
Social Security,)	
)	
Defendant.)	

ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation filed on September 1, 2021, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 24.) In the Recommendation, the Magistrate Judge recommends that the Commissioner's decision finding no disability be reversed, and that the matter be remanded to the Commissioner under sentence four of 42 U.S.C. § 405(g). The Magistrate Judge further recommends that Defendant's Motion for Judgment on the Pleadings, (Doc. 21), should be denied and that

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

Plaintiff's Motion for Summary Judgment, (Doc. 18), should be granted. The Recommendation was served on the parties to this action on September 1, 2021. (Doc. 25.) Counsel for Defendant filed timely objections, (Doc. 26), to the Recommendation, and Plaintiff responded, (Doc. 27), to Defendant's objections.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 24), is **ADOPTED**. **IT IS FURTHER ORDERED** that the Commissioner's decision finding no disability is **REVERSED** and that the matter is **REMANDED** to the Commissioner under sentence four of 42 U.S.C. § 405(g). The Commissioner is directed to remand the matter to the Administrative Law Judge for further

administrative proceedings consistent with the Recommendation. To this extent, the Commissioner's Motion for Judgment on the Pleadings, (Doc. 21), is **DENIED** and Plaintiff's Motion for Summary Judgment, (Doc. 18), is **GRANTED** to the extent set out in the Recommendation.

A judgment dismissing this action will be entered contemporaneously with this Order.

This the 27th day of September, 2021.


United States District Judge